

suitable dispersant (claim 1). The stanol can be sitostanol. The solubilizing agents disclosed are vegetable oil, monoglycerides, diglycerides, triglycerides, tocopherols, and the like. Dispersing agents disclosed are lecithin, other phospholipids, sodium lauryl sulfate, fatty acids, salts of fatty acids, fatty acid esters, and other detergent-like molecules. The Straub invention is intended for use in decreasing cholesterol absorption from only the food to which it is added (col. 3, lines 19-23). The present invention is effective when consumed separately from cholesterol-containing foods (see e.g., p.6, last two lines, p. 7, lines 12-13).

Claim 17 has the following limitations: water-soluble; aqueous, homogenous micellar mix of plant sterol and an emulsifier; and a mole ratio of sterol:emulsifier of 1:0.1 to 1:10. Missing from the Straub teaching is anything about the composition having any of the above listed limitations. All of these distinctions make the difference between a practical and usable delivery system suitable for mixing with foods; so that the food product itself is not impaired in any way, and so that the plant sterol is in a form which is in fact deliverable in dose form to provide its practical benefit for the human being, i.e., successfully lowering cholesterol levels. Claims 18-19 depend from claim 17 and, therefore, are likewise patentably distinct.

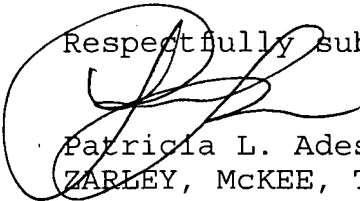
The above discussed distinctions are emphasized in the Applicant's specification and provide unobvious results not foreseen by the prior art. For example, on page 5 it is emphasized that the aqueous vesicular complex of the micellar phase is highly bioavailable. Finely-divided, water-soluble is emphasized on page 5 where it is indicated that such a form can be easily ingested. Likewise, it is emphasized on page 5 that when this aqueous, soluble system is in contact with aqueous, soluble materials in the human digestive system, the aqueous, micellar complex enters directly into the intestinal micellar phase to inhibit cholesterol absorption. In short, this specification goes to great length to indicate the importance of the claimed features not disclosed in the art, and to explain these limitations are meaningful to provide unexpected advantages over the system taught by Straub.

The mole ratio of plant sterol to emulsifier indicated in claims 17-19 are not taught, suggested, or motivated by Straub. Straub teaches nothing about the ratio of stanol to dispersing agent.

Based on the foregoing, Applicants respectfully submit that pending claims are in condition for allowance at this time, as they are patentably distinguishable over the prior art. Accordingly, consideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-3667 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitation in the present application which will be effective to define the patentable subject matter if the present claims are not deemed adequate for this purpose.

Respectfully submitted,



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